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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,116	03/23/2006	Dieter Huhse	3286-103	8764
6449	7590	08/04/2008		
ROTHWELL, FIGG, ERNST & MANBECK, P.C.			EXAMINER	
1425 K STREET, N.W.			TURNER, SAMUEL A	
SUITE 800				
WASHINGTON, DC 20005			ART UNIT	PAPER NUMBER
			2877	
			NOTIFICATION DATE	DELIVERY MODE
			08/04/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/573,116	<b>Applicant(s)</b> HUHSE ET AL.
	<b>Examiner</b> SAMUEL A. TURNER	<b>Art Unit</b> 2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 30 April 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s)       is/are withdrawn from consideration.

5) Claim(s) 1-20 and 22-25 is/are allowed.

6) Claim(s) 21 is/are rejected.

7) Claim(s)       is/are objected to.

8) Claim(s)       are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on       is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No.      .
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/0256/06)  
Paper No(s)/Mail Date      

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date      

5) Notice of Informal Patent Application

6) Other:

**DETAILED ACTION**

***Response to Arguments***

Applicant's arguments filed 30 April 2008 have been fully considered but they are not persuasive.

***Claim Rejections - 35 USC § 112, second paragraph***

Applicant's amendment has overcome the rejection of claims 1-20 under 35 U.S.C. § 112, second paragraph.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claim 21 stands rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wyeth et al(4,940,331).**

Applicant's arguments with respect to the rejection of claim 21 have been considered and are not persuasive, see pages 15-16 of Applicant's remarks.

Applicant argues that the detector 50 and the computer 80 do not meet the limitations of a measuring device having an evaluation device. At column 3, lines 11-21 the detector 50 measures the intensity of light of a pulsed laser beam from fiber 24. At column 3, lines 43-49 the computer 80 evaluates the combined beat signal and amplitude signal to calculate the instantaneous optical difference

frequency. The detector 50 and the computer 80 meet the limitation of a measuring device having an evaluation device.

Further, applicant argues that the computer is not suitable for carrying out the method of claim 1 because it does not contain the required programming. Claim 21 is drawn to an arrangement having a pulsed laser, an electrooptical component and a measuring device having an evaluation device. This structure is met by Wyeth et al. The claim only requires that the arrangement be suitable for carrying out the method of claim 1. To meet this limitation Wyeth et al need only have the claimed structure. No structural limitation or relationship between the claimed structure is found in claim 21 which would differentiate the claim from Wyeth et al. The claim is not limited to carrying out any method or functional limitation programmed specifically into the computer in order to carry out the method of claim 1.

***Allowable Subject Matter***

With regard to claims 1-20, and 22-25; see the Examiner's statement of allowable subject matter in the non-final rejection dated 31 January 2008.

***Action Made Final***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel A. Turner whose phone number is 571-272-2432.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr., can be reached on 571-272-2800 ext. 77.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Samuel A. Turner/  
Primary Examiner  
Art Unit 2877